

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA**

STUDENT DOE,

Plaintiff,

v.

KRISTI NOEM, *et al.*

Defendants.

Case No.: 5:25-cv-02070-CH

ORDER

AND NOW, this _____ day of _____ 2025, upon consideration of Defendants' Motion for Leave to File a Sur-Reply to Plaintiff's Consolidated Motions for Leave to Proceed with Pseudonym and for Protective Order/Order Not to Detain (ECF 4), it is hereby ORDERED that:

- (1) The motion is GRANTED; and,
- (2) The Clerk of Court is directed to file the Sur-Reply attached as Exhibit A to Defendants' Motion for Leave to File a Sur-Reply (ECF 11).

BY THE COURT:

HONORABLE CATHERINE HENRY
United States District Judge

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA**

STUDENT DOE,

Plaintiff,

v.

KRISTI NOEM, *et al.*

Defendants.

Case No.: 5:25-cv-02070-CH

**DEFENDANTS' MOTION FOR LEAVE TO FILE A SUR-REPLY TO
PLAINTIFF'S CONSOLIDATED MOTIONS FOR LEAVE TO PROCEED
WITH PSEUDONYM AND FOR PROTECTIVE ORDER/ORDER NOT TO
DETAIN (ECF 4)**

Pursuant to the Court's procedures, Defendants in their official capacities, by and through counsel, hereby move for leave to file a sur-reply to Plaintiff's Consolidated Motions for Leave to Proceed with Pseudonym and for Protective Order/Order Not to Detain (ECF 4).

The bases for this motion are set forth in the accompanying memorandum.

Respectfully submitted,

DAVID METCALF
United States Attorney

/s/ Stacey L. B. Smith

STACEY L. B. SMITH
ANDREW R. FUCHS
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615 Chestnut St., Suite 1250
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Dated: June 3, 2025

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA**

STUDENT DOE,

Plaintiff,

v.

KRISTI NOEM, *et al.*

Defendants.

Case No.: 5:25-cv-02070-CH

**DEFENDANTS' MEMORANDUM IN SUPPORT OF MOTION FOR LEAVE
TO FILE A SUR-REPLY**

The Court should permit the Defendants to file a sur-reply to Plaintiff's Consolidated Motions for Leave to Proceed with Pseudonym and for Protective Order/Order Not to Detain (ECF 4). A sur-reply is necessary to respond to two important assertions made by the Plaintiff in their reply in support of their motion: (1) that the injunction issued in *Doe, et al. v. Trump, et al.*, Civ. A. No 25-3140, Dkt. No. 69 (N.D. Cal. May 22, 2025) applies to Plaintiff here as a similarly situated plaintiff, and (2) that the injunction binds Defendants in this action.

A sur-reply is necessary to allow Defendants to clarify their position on these two important representations. Accordingly, Defendants respectfully request that the Court grant them leave to file the sur-reply brief attached hereto as Exhibit A.

Respectfully submitted,

DAVID METCALF
United States Attorney

/s/ Stacey L.B. Smith

STACEY L. B. SMITH
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(215) 861-8200

Dated: June 3, 2025

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA**

STUDENT DOE,

Plaintiff,

v.

KRISTI NOEM, *et al.*

Defendants.

Case No.: 5:25-cv-02070-CH

**DEFENDANTS' SUR-REPLY TO PLAINTIFF'S
CONSOLIDATED MOTIONS FOR LEAVE TO PROCEED WITH PSEUDONYM
AND FOR PROTECTIVE ORDER/ORDER NOT TO DETAIN**

I. BACKGROUND

Defendants in their official capacities, by and through counsel, hereby submit this sur-reply to address important representations made by Plaintiff in their Reply in Support of Plaintiff's Consolidated Motions for Leave to Proceed with Pseudonym and for Protective Order/Order Not to Detain (ECF 4).

In their Reply, Plaintiff, whose identity remains unknown to Defendants, asserts that the injunction issued in *Doe, et al. v. Trump, et al.*, Civ. A. No 25-3140, Dkt. No. 69 at 20-21 (N.D. Cal. May 22, 2025) applies to Plaintiff here as a similarly situated plaintiff, and binds Defendants in this action. (ECF 4, Pl.'s Reply Br. at 1).

Counsel for Defendants are not authorized to take a position on whether the injunction in the N.D. California case is binding outside of that jurisdiction. Regardless, without knowing Plaintiff's identity and confirming the underlying facts that led to the termination of their SEVIS record, Defendants cannot concede that the injunction would apply to Plaintiff as a "similarly situated plaintiff."

Defendants request that Plaintiff be ordered to reveal their identity to Defendants so that the parties may meaningfully discuss a stipulation that Defendants believe will moot this matter.¹ It is common sense that before Defendants can enter into the contemplated stipulation, Plaintiff must provide their identity to Defendants so that Defendants can confirm that the representations in the stipulation apply to Plaintiff and are conveyed to the Department of Homeland Security.

* * *

For the reasons stated herein and in Defendants' Response (ECF 9), Plaintiff's Consolidated Motions (ECF 4) should be denied, and Plaintiff should be required to provide their identity to Defendants so that the Parties may proceed towards entering into a stipulation to moot this case.

Dated: June 3, 2025

Respectfully submitted,

DAVID METCALF
United States Attorney

/s/ Anthony St. Joseph for
GREGORY B. DAVID
Assistant United States Attorney
Chief, Civil Division

¹ Article III of the United States Constitution limits the jurisdiction of federal courts to "cases and controversies." U.S. Const. Art. III § 2. A justiciable case or controversy requires a "live" issue presenting "a real and substantial controversy." *Old Bridge Owners Co-op. Corp. v. Township of Old Bridge*, 246 F.3d 310, 314 (3d Cir. 2001). Claims that present no live controversy to which the court can give meaningful relief are moot. *See id*; *see also*, *Clark v. Governor of New Jersey*, 53 F. 4th 769, 777 (3d Cir. 2022) (claims non-justiciable where courts cannot "grant any effectual relief"). Pursuant to Federal Rule of Civil Procedure 12(b)(1), a matter should be dismissed once there is no dispute over which to litigate.

/s/ Stacey L. B. Smith

STACEY L. B. SMITH

ANDREW R. FUCHS

Assistant United States Attorneys

Eastern District of Pennsylvania

615 Chestnut Street, Suite 1250

Philadelphia, PA 19106

Phone: (215) 861-8200

Counsel for Defendants

CERTIFICATE OF SERVICE

I certify that on this day, a true and correct copy of Defendants' Motion For Leave to File a Sur-Reply was filed electronically via the Court's CM/ECF system and served via CM/ECF on all counsel of record.

/s/ Stacey L. B. Smith
STACEY L. B. SMITH

Dated: June 3, 2025